



# California Regulatory Notice Register

REGISTER 2003, NO. 5-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JANUARY 31, 2003

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order, call (916) 445-5391. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Room 104, Sacramento, CA 95814-0212.

## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 1. OFFICE OF ADMINISTRATIVE LAW

#### NOTICE OF PROPOSED RULEMAKING

The Office of Administrative Law ("Office") proposes to repeal the following regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Office will hold a public hearing on Tuesday, March 18, 2003, starting at 10:00 a.m., located at 300 Capitol Mall, Suite 1210, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Office requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Office. The written comment period closes at **5:00 p.m. on March 18, 2003**. The Office will consider only comments received at the Office by that time. Please submit comments to:

Melvin Fong  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

#### AUTHORITY AND REFERENCE

Government Code section 11342.4 authorizes the Office to repeal the regulations that implement, interpret, or make specific section 11340.5 of the Government Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Office proposes to repeal sections 121-128 of title 1 of the California Code of Regulations (CCR). These regulations establish definitions, and set forth the filing requirements for determination requests, the

procedures for publishing a notice, submitting a public comment and an agency response, and for issuing a determination.

Government Code section 11340.5(b) authorizes the Office to issue a determination as to whether a state agency rule is a "regulation" as defined in Government Code section 11342.600 that is subject to the rulemaking requirements of the Administrative Procedure Act (APA; Gov. Code sec. 11340 et seq.). Since 1986, OAL has issued over 200 determinations pursuant to regulations adopted by OAL for processing determination requests and issuing determinations. These regulations are located at title 1, California Code of Regulations (CCR), sections 121-128. These regulations include definitions, the filing requirements for determination requests, the procedures for publishing a notice, submitting a public comment and an agency response, and for issuing a determination.

While the Office has the authority to issue a determination pursuant to Government Code section 11340.5(b), this same statute makes the issuance of a determination a discretionary function of the Office. (Gov. Code sec. 11340.5(b) "the office *may* issue a determination." (Emphasis added.)) In contrast, the regulations proposed for repeal—sections 121-128—implement Government Code section 11340.5(b) and establish the process that the Office is required to follow once it is notified, or learns on its own, of a state agency rule that has not complied with the procedures and requirements of the APA. As a result of the upcoming 20% reduction in the Office's budget (and the 6% and 11% budget cuts already incurred in the prior and current fiscal years, respectively), the Office is no longer able to perform the discretionary function of issuing determinations, in addition to its statutorily mandated duties, with the resources available. Thus, the Office proposes to repeal title 1, CCR, sections 121-128, and Appendix A ("Request for Determination—Form 1013 (1/02)")—the process that the Office is required to follow for accepting determination requests and issuing a determination.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Office has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None. The repeal of the determination process regulations does not result in any costs or savings to the Office, but allows the Office, in light of the recent reductions in its budget, to better utilize its available resources pursuant to the statutory mandates imposed upon the Office.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Office is not aware of any cost impacts that a representative private person or business would necessarily incur as a result of the proposed action.

Repeal of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination: The Office has determined that the proposed repeal of the regulations does not affect small business. These regulations set forth the procedures for seeking, and issuing, a legal nonbinding opinion from the Office concerning whether a state agency rule, policy or procedure is subject to the Administrative Procedure Act.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Office must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Office invites interested persons to present statements or arguments with respect to alternatives to the proposed repeal of the regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed regulatory action may be directed to:

Debra Cornez, Senior Counsel  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
Telephone: (916) 323-6831

The backup contact person for these inquiries is:  
Melvin Fong, Legal Assistant  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
(916) 324-7952

Please direct requests for copies of the text (the "express terms") of the regulations that are proposed for repeal, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Fong at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Melvin Fong at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Office may adopt the proposed order of repeal of the regulations substantially as described in this notice. If the Office makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Office adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Melvin Fong at the address indicated above. The Office will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Fong at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in strikeout format, as well as the Final Statement of Reasons once it is completed, can be accessed through our website at [www.oal.ca.gov](http://www.oal.ca.gov).



## TITLE 2. DEPARTMENT OF GENERAL SERVICES

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the Department of General Services ("DGS") proposes to repeal Sections 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, and 1896.20 in Title 2, Division 2, Chapter 3, Subchapter 8 of the California Code of Regulations (CCR) in their entirety. These sections pertain to the definition of terms, preferences, assistance, agents, reports, prequalification, certification, small business joint venture exemption, application processing, sanctions for providing false information and appeal of determination.

In place of the repealed sections, DGS proposes to adopt the new regulations governing the administration of the Small Business Procurement and Contract Act, specifically Sections 1896, 1896.2, 1896.4, 1896.6, 1896.8, 1896.10, 1896.12, 1896.14, 1896.16, 1896.18, 1896.20 and 1896.22. These sections pertain to purpose of the subchapter, authority, definitions, application of the small business preference, computing the small business preference and the non-small business subcontractor preference, substitution of a small business subcontractor, eligibility for certification as a small business, responsibilities of the small business, certification by the department, and appeal of certification denial, decertification, or the imposition of sanctions, and appeal hearings and decisions.

DGS proposes to adopt the new regulations after considering all comments, objections and recommendations regarding the proposed action.

### AUTHORITY

§ 14843, Government Code Chapter 882, Statutes of 2001 (AB 1084, Wesson)

### REFERENCES

§ 927 et seq, Government Code  
 §§ 4530–4535.3, Government Code  
 §§ 7070–7089, Government Code  
 §§ 7105–7118, Government Code  
 § 11370.2, Government Code  
 § 11502, Government Code  
 §§ 14835–14843, Government Code  
 § 12102, Public Contract Code  
 §§ 12150–12226, Public Contract Code  
 Title 13 Code of Federal Regulations (CFR), Chapter I, Part 121, Section 121.104  
 Title 13 CFR, Chapter I, Part 121, Section 121.103  
 Title 13 CFR, Chapter I, Part 121, Section 121.406

### PUBLIC HEARING

DGS will hold a public hearing from 9:00 a.m. to 3:00 p.m. on **Tuesday, March 18, 2003 in the**

**Auditorium of the Department of General Services Headquarters Building, located at 707 Third Street in West Sacramento, California.** The hearing room is wheelchair accessible. At the hearing, any person may present his or her statement(s) or arguments(s) orally or in writing relevant to the proposed action described in the Informative Digest. DGS requests but does not require that persons who make oral comments at the hearing also submit a written copy of his or her testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DGS no later than **5:00 p.m. on March 17, 2003**, or at the hearing. DGS will consider only comments received at the DGS office noted below by the deadline, or at the hearing. Submit comments to:

Patricia Jones, Chief  
 Office of Small Business and Disabled Veteran  
 Business Enterprise (DVBE) Certification  
 Procurement Division  
 707 Third Street, Suite 400  
 West Sacramento, CA 95605  
 Telephone: (916) 375-4945  
 Email address: [patricia.jones@dgs.ca.gov](mailto:patricia.jones@dgs.ca.gov)  
 FAX: (916) 375-4950  
 Receptionist: (916) 375-4940 or (800) 559-5529  
 24-Hour Recording and Mail Request:  
 (916) 322-5060

### AMERICANS WITH DISABILITIES ACT (ADA)

To comply with the nondiscrimination requirements of the ADA, it is the policy of the State to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing a reasonable modification to participate in the public hearing or public comment process, please contact Patricia Jones (address and contact information noted above).

The Procurement TTY/TDD (telephone device for the hearing impaired) or California Relay Services Numbers are as follows:

Procurement Division TTY: (916) 376-1891  
California Relay Service:  
 Voice: 1-800-735-2922  
 TTY: 1-800-735-2929

If reasonable modifications are needed at one of the public hearings, to ensure that the needs can be met, individuals are asked to submit their requests no later than 10 working days prior to the hearing.

### CONTACT PERSON

Inquiries or questions concerning this action may be directed to Patricia Jones at (916) 375-4945.

The back-up contact person is Cathy Kurtz, (916) 375-4943.

Questions concerning the substance of the proposed regulations may be addressed to Patricia Jones at (916) 375-4945.

A copy of the proposed text of the regulations, and the Initial Statement of Reasons may be viewed on the Department of General Services, Procurement Division website at <http://www.pd.dgs.ca.gov/default.htm>.

Requests for copies of the proposed text of the regulations, the initial statement of reasons, and the modified text of the regulations, if any, should be directed to:

Office of Small Business and DVBE Certification  
PO Box 989052  
Sacramento, CA 95798-9052  
Receptionist: (916) 375-4940,  
FAX: (916) 375-4950  
24-Hour Recording and Mail Request:  
(916) 327-9978

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In establishing the Small Business Procurement and Contract Act, the Legislature declared that *"it is also essential that opportunity is provided for full participation in our free enterprise system by small business enterprises. Further, it is the declared policy of the Legislature that the state should aid, counsel, assist, and protect, to the maximum extent possible, the interests of small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the state be placed with such enterprises"* (Government Code 14836).

These regulations are intended to honor the intention and commitment of the Legislature to assist small businesses, by helping them understand the rules established for the administration of the small business program. The proposed regulations provide clarity for businesses wanting to participate in the small business certification program. The existing regulations (that are being repealed) are cumbersome and difficult for small businesses to understand without the assistance of an attorney. The California small business community has voiced their opinion regarding the need for clearer and simpler small business regulations.

These proposed regulations define terms used in the small business program in plain, straightforward language. Small business certification and eligibility requirements are specifically listed in the proposed regulations to assist the business community in understanding how DGS makes its determination on small business certification eligibility. The small business certification application process is explained.

In the event small business certification is denied or revoked by DGS, or sanctions are to be imposed, the steps for the appeal process are included to assist businesses in understanding their rights to have DGS' decision reviewed.

Section 1896 "Purpose of Subchapter", states the purpose of the subchapter.

Section 1896.2 "Authority", establishes the authority of DGS to implement the provisions of the Small Business Procurement and Contract Act.

Section 1896.4 "Definitions" defines the following terms as used in the subchapter: affiliate or affiliation, ALJ, appellant, applicant, assignment, awarding department, bid, business, certified small business, department, disabled veteran-owned business, employee, gross receipts, joint venture, local agency, manufacturer, microbusiness, net bid price, non-profit corporation, non-small business, OAH, principal office, responsive bid, solicitation, and state agency.

Section 1896.6 "Application of the Small Business and Non-Small Business Subcontractor Preferences", explains when the small business bid evaluation preference and the non-small business subcontractor preference will be applied.

Section 1896.8 "Computing the Small Business and Non-Small Business Subcontractor Preferences", explains how these preferences are computed during bid evaluations.

Section 1896.10 "Substitution of a Small Business Subcontractor", explains how a non-small business may replace a small business subcontractor if they were awarded the contract based in part on the application of the non-small business subcontracting preference.

Section 1896.12 "Eligibility for Certification as a Small Business", describes the determining eligibility criteria DGS will use to certify a small business.

Section 1896.14 "Responsibilities of the Small Business", describes the responsibilities of a business that wishes to be certified as a small business. It also describes the responsibilities of a certified small business during its certification period.

Section 1896.16 "Certification by the Department", describes the certification by DGS, including certification of businesses that have been certified by another governmental organization that uses the same or more stringent standards and practices as set forth in the Government Code, the certification period, decertification, and the sanctions that may be imposed by DGS if a business obtains or retains a small business certification on the basis of furnishing incorrect or incomplete information to DGS.

Section 1896.18 "Appeal of Certification Denial, Decertification, or the Imposition of Sanctions", describes the grounds for appealing DGS's decision to

deny a certification, decertify a business, or impose sanctions, and how the appeal shall be lodged.

Section 1896.20 “Appeal Hearings”, describes how the appeals hearings (of certification denials, decertifications, or the imposition of sanctions) will be conducted.

Section 1896.22 “Appeal Decisions”, describes what authority the Administrative Law Judge (ALJ) has following an appeal hearing.

#### POLICY STATEMENT OVERVIEW

The purpose of the proposed regulations is to **simplify** the existing small business regulations, Sections 1896 through 1896.20 in Title 2, Division 2, Chapter 3, Subchapter 8 of the California Code of Regulations. The regulations being repealed and replaced in their entirety are very hard to interpret from the vantage point of the small business community without the aid of an attorney. The proposed regulations define terms used in the small business program in plain, straightforward language. Small business certification and eligibility requirements are specifically listed in these proposed regulations to assist the business community in understanding how DGS makes its determination on small business certification eligibility. The small business certification application process is explained. In the event small business certification is denied or revoked by DGS, the steps for the appeal process are included to assist businesses in understanding their rights to have DGS’s decision reviewed.

In addition, the new regulations address a new preference (the non-small business subcontracting preference established in Chapter 882, Statutes of 2001 [AB 1084, Wesson]), and also the microbusiness designation established in the same statute.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

DGS has made the following initial determinations:

- This proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Effect on housing costs: None

#### ASSESSMENT STATEMENT

Adoption of these regulations will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

#### COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The DGS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local mandate: None.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Other nondiscretionary costs/savings imposed upon local agencies: None.

#### EFFECT ON SMALL BUSINESS

DGS has determined that the proposed regulations affect small business in a positive manner.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), DGS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DGS would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DGS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearings or during the written comment period.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearings and considering all timely and relevant comments received, DGS may adopt the proposed regulations substantially as described in this notice. If DGS makes substantive modifications to the originally proposed text, it will make the modified text (with the changes clearly marked) available to the public for at least 15 days before DGS adopts the regulations as revised. Any such modifications will also be posted on the DGS website. Please direct requests for copies of any modified regulations to the attention of Patricia Jones at the address indicated above. DGS will accept written comments on the modified regulations for 15 days after the date on which they are made available.



AVAILABILITY OF INITIAL STATEMENT OF  
REASONS AND TEXT OF PROPOSED  
REGULATIONS/INTERNET ACCESS

An initial statement of reasons and the text (“express terms”) of the proposed regulations have been prepared and are available from the contact person named in this notice. DGS will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the Office of Small Business and DVBE Certification, 707 Third Street, 1st Floor, West Sacramento, CA 95605. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the initial statement of reasons, and the proposed text of the regulations in ~~strikeout~~/underline. In addition, the above-cited materials may be accessed on the DGS website at <http://www.pd.dgs.ca.gov/default.htm>.

AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from Patricia Jones, or by contacting the Office of Small Business and DVBE Certification receptionist, or may be accessed on the website listed above.

DISTRIBUTION OF THIS NOTICE

Pursuant to Government Code Section 11346.4(a)3–4, this Notice of Proposed Rulemaking will be mailed to all certified small businesses and other interested parties, as soon as it is approved by the OAL for publication.

Pursuant to Government Code Section 11346.4(a)6, as soon as the OAL has approved the publication, the following items will be posted to the Department of General Services, Procurement Division website at <http://www.pd.dgs.ca.gov/default.htm>:

- Notice of Proposed Rulemaking
- Text of the Proposed Regulations (the express terms)
- Initial Statement of Reasons

**TITLE 2. FAIR POLITICAL  
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and

87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

**ADOPTION**

MULTI-COUNTY:

CSAC Excess Insurance Authority (CSAC EIA)  
Central Sierra Child Support Agency  
Central Valley Schools JPA  
Freeport Regional Water Authority  
Guajome Park Academy

**AMENDMENT**

STATE AGENCY:

State and Consumer Services Agency

MULTI-COUNTY:

Metropolitan Transportation Commission

A written comment period has been established commencing on **January 31, 2003** and closing on **March 17, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission’s Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **March 17, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result



from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and

87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

##### ADOPTION

##### MULTI-COUNTY:

Inland Empire Regional Composting Authority

##### AMENDMENT

##### MULTI-COUNTY:

Central Coast Water Authority

Sacramento Regional Transit District

A written comment period has been established commencing on **January 31, 2003** and closing on **March 3, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia A. Jones, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **March 3, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were

mandated by the Political Reform Act of 1974. Therefore, they are not “costs mandated by the state” as defined in Government Code Section 17514.

#### **EFFECT ON HOUSING COSTS AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### **AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### **TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after March 7, 2003 at 9:30 a.m. Written comments should be received at the Commission offices no later than noon on March 6, 2003.

#### **BACKGROUND/OVERVIEW**

Regulation 18313 states the Commission’s procedures for approving new forms and manuals and for making revisions to existing forms and manuals. The regulation provides that the Commission will maintain a list of persons interested in its forms and manuals and that the Commission will mail a copy of a new or revised form or manual to persons on the list no later than 30 days prior to the Commission’s consideration of the form or manual. The new or revised form or manual then appears on the next regular meeting agenda of the Commission for adoption. The Commission may adopt the form, manual, revision or supplement, make changes to it and adopt it as modified, reject it, or schedule an interested persons meeting on the document.

#### **REGULATORY ACTION**

Amend 2 Cal. Code Regs. § 18313: The Commission will consider an amendment to regulation 18313 to provide that the revised form or manual may be made available to persons on the interested persons list via electronic mail and the Commission’s website, rather than being mailed through the postal service. Under such a change, the new or revised forms and manuals will continue to be made available for public comment to those on the interested persons list. However, the Commission will save the costs of sending the documents through postal service, including staff resources, photocopying and postage.

In addition, the Commission recently had certain of its most widely used forms and manuals translated into Spanish. The Commission will consider amending regulation 18313 to state that in the event of an inconsistency between the English version of a form or manual and the translation, the English version controls.

The Commission may make other changes to regulation 18313 concerning the Commission’s procedure for adopting forms and manuals.

#### **FISCAL IMPACT STATEMENT**

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### **AUTHORITY**

Government Code section 83112 provides that the Fair Political Practices Commission may adopt,

amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code section 83113, which describes the additional duties of the Commission.

#### CONTACT

Any inquiries should be made to Hyla P. Wagner, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### ADDITIONAL COMMENTS

The Commission may make changes to the proposed regulation before its adoption or repeal. After the hearing, the Commission may adopt or repeal the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public.

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after March 7, 2003. Written comments should be received at the Commission offices no later than noon on March 6, 2003.

#### BACKGROUND/OVERVIEW

Government Code section 87105, added to the Political Reform Act (the "Act") by Assembly Bill 1797 (Harman), pertains to the requirements for Government Code section 87200 filers ("87200 filers"), other than members of the Legislature, when the official determines that he or she has a financial interest. The new section provides in pertinent part:

"(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

"(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

"(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

"(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

"(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue."

#### REGULATORY ACTION

##### Adopt 2 Cal. Code Regs. § 18702.5

Proposed regulation 18702.5 provides guidance to 87200 filers regarding certain public identification and recusal requirements of Government Code section 87105. The Commission will consider various issues if it chooses to adopt regulation 18702.5:

- *The timing of the disclosure.* The Commission will consider whether the identifications will be made following the announcement of the item for discussion but before the discussion commences or at some other time.
- *Description of the conflict of interest.* The Commission may consider the content of disclosure such as whether the statute requires disclosure of the economic interest or a more specific description of the type of economic interest. The Commission may consider either of these disclosure requirements, both of these disclosure requirements, or other options.
- *Types of situations.* The Commission will consider the scope of the regulation. This includes possibly limiting this regulation to only meeting settings when the official is acting in his or her capacity as a section 87200 filer, including all meetings, or including all situations where a section 87200 filer has a conflict of interest.
- *Closed session/absent public official.* Generally, agencies have both open and closed meetings. The Commission will consider if the same rules apply in a closed session setting as apply to an open meeting. In addition, the Commission may consider what the obligations of an absent public official might be and whether public officials that miss the entire meeting should be treated differently than public officials that are only absent for the item in which they have a conflict of interest.
- *Oral/written disclosure.* The Commission will consider the method of disclosure such as whether only oral disclosure is required or if written disclosure will suffice.
- *General public discussion.* Under current regulation 18702.4, a public official can speak as a member of



the general public under certain circumstances. The new statute incorporates this exception. The Commission will consider whether the public official may remain in the room during the entire public discussion when the public official has spoken as a member of the general public. The Commission may choose to require the public official to leave the room after he or she speaks or some other option.

The Commission may consider other related issues as well as those discussed above.

#### **FISCAL IMPACT STATEMENT**

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### **AUTHORITY**

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### **REFERENCE**

The purpose of this regulation is to implement, interpret and make specific Government Code section 87105.

#### **CONTACT**

Any inquiries should be made to Galena West, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

#### **ADDITIONAL COMMENTS**

After the hearing, the Commission may adopt the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulation before its adoption.

## **TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public

hearing on or after March 7, 2003 at 9:30 a.m. Written comments should be received at the Commission offices no later than noon on March 6, 2003.

#### **BACKGROUND/OVERVIEW**

The financial disclosure provisions of the Political Reform Act (Government Code sections 87200–87210, 87300–87350, and 87500) and the Commission’s regulations thereunder (regulations 18723–18740, 18753) generally require public officials to disclose their financial interests upon assuming office, annually, and upon leaving office. Public officials listed in section 87200 of the Act (collectively called “section 87200 filers”), such as elected state officers, judges, members of planning commissions, district attorneys, mayors, and other state, county, and local officials are required to disclose all of their investments, interests in real property, and income, with certain exceptions.

Other public officials who make, participate in making, or influence governmental decisions of their agency (collectively called “section 87300 filers”) are designated in, and disclose their financial interests according to the requirements of, a conflict of interest code adopted by their agency pursuant to section 87302 of the Act. Under existing law, an agency has up to six months to create and submit its initial conflict of interest code for approval.

To redress the lack of disclosure during the period preceding the effective date of a new conflict of interest code, recently enacted section 87302.6 of the Act requires members of boards or commissions of newly created agencies that are subject to the conflict of interest code requirements to file statements of economic interests at the same time and in the same manner as section 87200 filers, until the members are covered by the new conflict of interest code. The Commission is considering adopting new regulation 18754 to implement section 87302.6.

#### **REGULATORY ACTION**

Adopt 2 Cal. Code Regs. § 18754: The proposed regulation describes that members of boards or commissions of newly created agencies are to file statements of economic interests disclosing their economic interests pursuant to sections 87202–87210 of the Act. The proposed regulation provides that a person who is either described in section 87200 of the Act, or who is a member of a board or commission that does not possess decisionmaking authority, as defined at regulation 18701(a)(1), would not be subject to these filing obligations. The proposed regulation also addresses when and where to file assuming office, annual, and leaving office statements of economic interests. As proposed by the Commission’s staff, this regulation would deal with the following issues:



*1. When to File*

- (a) Should members of boards or commissions of agencies that are in existence prior to January 1, 2003, but do not as of yet have an effective conflict of interest code, be required to file an assuming office statement? When should they file?
- (b) Should the following existing exceptions applicable to section 87200 filers also apply for purposes of this statute?
  - (i) A member who assumes office between October 1 and December 31, and files an assuming office statement, is not required to file an annual statement until one year later than April 1 date of the next calendar year.
  - (ii) A member who leaves office between January 1 and the filing deadline for his or her annual statement and who files a leaving office statement may invoke an exemption and not file the annual statement.
  - (iii) A member completing a term of office and, within a 30-day period, begins a new term of the same office or a similar office in the same jurisdiction is not required to file a leaving office statement and assuming office statement.
- (c) Should assuming office statements or annual statements filed under regulation 18754 satisfy the requirement of section 87302(b) that requires that employees designated under an agency's conflict of interest code are to file an initial statement within 30 days of the date the code first goes into effect?

*2. Where to File*

Should members of a board or commission of a newly created city, county, or multi-county agency, file in the same place as members of a board or commission of a newly created state agency? Who shall be the filing officer for these filings?

The Commission may consider and adopt regulatory language addressing these issues consistent with the proposed regulation, or may elect to modify the provisions in furtherance of the purposes of section 87302.6 of the Act. The Commission may also consider other issues that are raised concerning interpretation of the statutory language. Bracketed language represents optional language.

**FISCAL IMPACT STATEMENT**

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

**AUTHORITY**

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

**REFERENCE**

The purpose of this regulation is to implement, interpret and make specific Government Code section 87302.6.

**CONTACT**

Any inquiries should be made to Kenneth L. Glick, Counsel, Legal Division, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

**ADDITIONAL COMMENTS**

The Commission may be requested by its staff to adopt this regulation on an emergency basis. In addition, after the hearing, the Commission may adopt the proposed regulation if it remains substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulation before its adoption.

**TITLE 5. BOARD OF EDUCATION**

**CALIFORNIA STATE BOARD  
OF EDUCATION**

**NOTICE OF PROPOSED RULEMAKING**

**Instructional Materials Funding  
Realignment Program**

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

The State Board will hold a public hearing beginning at **2:00 p.m. on Wednesday, April 9, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments

orally notify the Regulations Adoption Coordinator of such intent. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. All written comments must be received by the Regulations Adoption Coordinator no later than the close of the public hearing scheduled to start at **2:00 p.m. on Wednesday, April 9, 2003**. Requests to present oral statements at the public hearing or written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814-5901  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone : (916) 319-0641  
FAX: (916) 319-0155

#### AUTHORITY AND REFERENCE

Authority: Sections 33031 and 60005, Education Code.

Reference: Sections 60242 (a-b), 60242.5, 60421 and 60422, Education Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Constitution (Article 9, Section 7.5), and existing law (Education Code Section 60200) require the State Board to adopt instructional materials for grades K-8 and to establish rules and regulations for the use of state instructional materials funds.

The purpose of the regulations is to establish the expenditure percentages and priorities for the use of state instructional materials funds for grades K-12, as well as, to clarify and define the procedures for new school districts, charter schools and expanding grade levels.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: The regulations clarify which materials may be purchased with state Instructional Materials Funds and the percentages that can be spent on various specified categories. There may be a financial impact on some publishers of supplementary materials to the extent that some materials may no longer be purchased by districts using state Instructional Materials Funds. This impact is minimal and therefore, the proposed regulations would not have a significant adverse affect on any small businesses.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Susan Martimo, Education Programs Consultant  
California Department of Education  
Instructional Resources  
1430 N Street, 6th Floor  
Sacramento, CA 95814-5901  
E-mail: [smartimo@cde.ca.gov](mailto:smartimo@cde.ca.gov)  
Telephone: (916) 319-0446  
FAX: (916) 319-0172

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Regulations Adoption Coordinator.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>.

## TITLE 5. BOARD OF EDUCATION

### CALIFORNIA STATE BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING

##### Regular Average Daily Attendance for Charter Schools

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

The State Board will hold a public hearing beginning at **2:00 p.m. on Wednesday, April 9, 2003**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. All written comments must be received by the Regulations Adoption Coordinator no later than the close of the public hearing scheduled to start at **2:00 p.m. on Wednesday, April 9, 2003**. Requests to present oral statements at the public hearing or written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814-5901  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone : (916) 319-0641  
FAX: (916) 319-0155

#### AUTHORITY AND REFERENCE

Authority for these regulations is found in Education Code section 33031. Education Code section 33031 is the State Board's general authority to adopt rules and regulations for the government of the day and evening schools of the state that are not inconsistent with the requirement of statute.

References are made to Education Code sections 41420, 46301, 47612, and 47612.1. These statutes govern individuals who may be claimed for apportion-

ment purposes as pupils in regular attendance in kindergarten and any of grades one through twelve, inclusive, in the public schools.

# INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code section 47612(b) states in pertinent part:

. . . To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. . .

In keeping with law, the State Board adopted a definition of "satisfactory progress," which is contained in California Code of Regulations, Title 5, Section 11965(b). In pertinent part, this definition states:

. . . [Satisfactory progress (for non-special education pupils)] means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering agency is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.

. . . [Satisfactory progress (for special education students)] means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program. . .until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

Under the provisions of Education Code section 56026, special education students are defined, in effect, to be students who have an impairment (as defined by federal law) that requires instruction, services, or both, which cannot be provided with modification of the regular school program and who are less than 22 years of age. An exception is provided

for students whose 22<sup>nd</sup> birthday will occur during the months of January to June, inclusive, of an academic year; they are allowed to participate in a program for the whole of that academic year.

The specific language of Education Code section 47612(b) (" . . .To remain eligible. . .") clearly expresses the intent and expectation that a pupil be enrolled in a public school in pursuit of a high school diploma as he or she leaves 19 years of age and becomes 20 years of age as one qualification of being "continuously enrolled" for apportionment purposes. A specific exemption to the requirements of Education Code section 47612(b) is set forth in Education Code section 47612.1, which is taken into account in the regulations.

In order to ensure that the clear intent of Education Code section 47612(b) is met, the regulations preclude a charter-authorizing entity from claiming individuals as K-12 average daily attendance who are not claimable by a charter school under the regulations. Absent such a preclusion, which is not inconsistent with any provision of law relating to non-charter public schools, a charter-authorizing entity could claim the individuals and assign them to the charter school for instructional purposes, thus defeating the statute's clear intent.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.



Affect on small businesses: The proposed amendments to the regulations do not have an affect on small businesses because they only provide clarity for charter schools for the purposes of claiming K-12 attendance for apportionment purposes. The proposed regulations do not impose additional workloads on small businesses or contractors funded by the Department.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Eileen Cubanski, Administrator  
California Department of Education  
Charter Schools Office  
1430 N Street, Room 3800  
Sacramento, CA 95814  
E-mail: [ecubansk@cde.ca.gov](mailto:ecubansk@cde.ca.gov)  
Telephone: (916) 322-6029  
FAX: (916) 322-1465

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to Regulations Adoption Coordinator.

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/regulations>

### **TITLE 5. TEACHERS' RETIREMENT SYSTEM**

NOTICE IS HEREBY GIVEN that the Teachers' Retirement Board (herein after referred to as "Board"), pursuant to the authority vested in it by Section 22200.5 of the Education Code, proposes to take the action described in the Informative Digest.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 22200.5 of the Education Code, and to implement, interpret or make specific Sections 22200 and 22200.5 of the Education Code, the Teachers' Retirement Board is considering adding a new Article 13, and Sections 24000 through 24009 to Division 3 of Title 5 of the California Code of Regulations as follows:

#### **INFORMATIVE DIGEST**

Existing law, Section 22200 of the Education Code specifies the composition of the Board which administers the State Teachers' Retirement Plan and the California State Teachers' Retirement System (herein after referred to as "System"). Chapter 1049, Statutes

of 2002 (SB 1580—Burton), among other things, requires the three members of the Board who currently are appointed by the Governor to represent active members and participants of System to be elected by the active members and participants. The changes made to the composition of the Board take effect on January 1, 2004. The chaptered legislation also requires the Board to adopt regulations governing the conduct of elections and hold special elections to fill vacancies that occur during the term of the elected Board members.

The proposed regulations establish the rules governing the System's conduct of the election of members to the Board.

#### **ADOPTION**

Any interested person may present written comments regarding the proposed action to the person designated in this Notice as the contact person on or before 5:00 p.m. February 21, 2003. The System may present modifications to the proposed regulations to the Board for its consideration and adoption based on the written comments received.

The Board, as part of its Regular Meeting open to the public scheduled for Thursday, March 6, 2003, will discuss the proposed regulations, consider written comments received by the System by the deadline listed above, along with modifications suggested by the System, and consider any oral comments made during the time allotted for Opportunity for Statements From the Public.

Immediately following the discussion and considering all timely and relevant comments received, the Board may adopt the proposed regulations as described in this Notice, or with modifications. If the Board makes modifications to the proposed text, copies of the modified text (with changes clearly indicated) may be obtained by contacting the person designated in this Notice as the contact person.

#### **TEXT OF PROPOSAL**

Materials regarding this proposal, including the text of the proposed regulations and text of proposed modifications, can be accessed through the System's Web site at <http://www/calstrs.ca.gov> or be obtained by contacting the person designated in this Notice as the contact person.

#### **CONTACT**

Copies of the proposed regulations and inquiries or written comments concerning the substance of the proposed regulations should be made to:

Scot Blackledge, Legislative Coordinator  
Legislative Services Office MS-14  
California State Teachers' Retirement System  
7667 Folsom Boulevard  
Sacramento, CA 95826-2614

Telephone: (916) 229-3727

Fax: (916) 229-3699

E-mail address: [sblackledge@calstrs.ca.gov](mailto:sblackledge@calstrs.ca.gov)

The backup contact person is:

Jim Zerio, Manager

California State Teachers' Retirement System

Legislative Services Office MS-14

7667 Folsom Boulevard

Sacramento, CA 95826-2614

Telephone: (916) 229-3727

Fax: (916) 229-3699

E-mail address: [jzerio@calstrs.ca.gov](mailto:jzerio@calstrs.ca.gov)

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **March 20, 2003** at 10:00 a.m. in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **March 20, 2003** following the Public Meeting in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **March 20, 2003** following the Public Hearing in the Auditorium of the Harris State Building, 1515 Clay Street, Oakland, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on March 20, 2003.

1. TITLE 8: CONSTRUCTION SAFETY ORDERS  
Chapter 4, Subchapter 4  
Article 2, Section 1504  
Article 21, Sections 1637 and 1640  
**Scaffold Design and Use**
2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS  
Chapter 4, Subchapter 7  
Article 110, Section 5214 and  
Appendix A of Section 5214  
**Inorganic Arsenic**

A description of the proposed changes are as follows:

1. TITLE 8: CONSTRUCTION SAFETY ORDERS  
Chapter 4, Subchapter 4  
Article 2, Section 1504  
Article 21, Sections 1637 and 1640  
**Scaffold Design and Use**

INFORMATIVE DIGEST OF PROPOSED  
ACTION/POLICY STATEMENT OVERVIEW

This proposed rulemaking action is being initiated at the request of the Division of Occupational Safety and Health (Division). The Division submitted a Form 9, Request for New, or Change in Existing, Safety Order, dated July 18, 2000, to amend the Construction Safety Orders (CSO), Sections 1504 and 1637 to clarify the definitions and design criteria for light-duty, medium-duty, heavy-duty and special-duty scaffolds.

According to the Division, a contractor contacted a scaffold company for pricing information on providing and installing metal scaffolding. Confusion arose when the contractor was presented with two prices: one for a scaffold designed for a working load of 10 pounds per square foot (psf) of working platform, and the other for a scaffold designed for a working load of 25 psf of working platform. The contractor contacted the Division for the interpretation of Title 8 regulations

pertaining to this matter. After researching the Title 8 safety orders, the Division concluded that the scaffold design criteria specified in various sections of the Construction Safety Orders are neither consistent nor very clear.

For example, tube and coupler, tubular welded frame, bracket, and pump jack scaffolds (Sections 1644(b) and (c), 1645(d), and 1655(a)) must be constructed and erected to support 4 times the maximum intended/rated load that is applied to them. Light, medium, heavy and special-duty scaffolds, as defined in Section 1504(a), must be designed and constructed to carry maximum working loads of 25, 50, 75 and exceeding 75 psf of scaffold platform, respectively. Light, medium, and heavy-duty tube and coupler scaffolds address the same load requirements in tables 1, 2, and 3 of Section 1644(b). Other scaffolds, such as light-trade interior wooden scaffolds, ladder jack and pump jack scaffolds, address different working load requirements that are unique to these scaffolds.

29 Code of Federal Regulations (CFR) Part 1926.451(a)(1) specifies that each scaffold and scaffold component shall be capable of supporting its own weight and at least 4 times the maximum intended load applied or transmitted to it. Similar to this requirement, Section 4.6 of American National Standards Institute (ANSI) A10.8-1988 requires that the scaffold be capable of supporting its own weight and at least 4 times the maximum intended load with exceptions for guard rail systems, suspension ropes, solid sawn wood components, and other wood-based members and connections to wood. ANSI A10.8-1988 further defines load ratings specifically for scaffold platform units. Section 5.1.2.2 addresses uniformly distributed load criteria for each platform unit of a scaffold. The applicable uniformly distributed load criteria for each light, medium, heavy and special duty platform unit are 25, 50, 75, and exceeding 75 psf of platform unit area, respectively.

In light of the aforementioned federal requirements and industry standards, this rulemaking action will address the Division's request to provide clarity and consistency in the scaffold design/construction criteria contained in Title 8 by outlining strength and loading requirements specific to light, medium, heavy and special-duty scaffolds and maximum design load requirements that are applicable to all scaffolds. These design load requirements differ from the federal counterpart regulations and ANSI standards in that scaffolds must be designed and constructed to support at least 4 times their own weight in addition to at least 4 times the maximum intended working load, whereas federal regulations and ANSI standards require scaffolds to withstand only their own weight and at least 4 times the maximum intended load that is applied or



transmitted to them. The majority of advisory committee members, representative of the scaffold and construction industry, indicated that the federal regulations and ANSI standards are interpreted to mean that the scaffold must be capable to support at least 4 times its own weight and at least 4 times the maximum intended working load. Upon the advisory committee's request, Board staff contacted scaffold manufacturers who indicated that scaffolds are designed and manufactured to support 4 times their own weight and 4 times the maximum intended working load. The proposed design load requirements will be applicable to all scaffolds in order to be at least as effective as comparable federal regulations and the scaffold industry's design load requirements.

This proposed rulemaking action contains non-substantive, editorial and grammatical revisions. These non-substantive revisions are not all discussed in this Informative Digest, but they are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non-substantive revisions, the following actions are proposed:

#### Section 1504. Definitions.

Section 1504 gives the definitions of the various terms used in the Title 8, Construction Safety Orders. Revisions are proposed to amend the scaffold and staging definitions, specifically paragraphs (D) through (G) pertaining to light, medium, heavy and special-duty scaffolds, respectively. It is proposed to delete the term "metal" from the definitions of these categories of scaffolds so as not to conflict with the requirements contained in existing Section 1637(b), which states in part that "scaffolds shall be constructed of wood or other suitable materials such as steel or aluminum members of known strength characteristics." In addition, it is proposed to delete the phrase "not to exceed" before the listed psf working load requirements to prevent scaffolds from being constructed to support loads less than these amounts, and add language that clarifies what constitutes the working loads for each of these scaffold categories. To eliminate duplication, it is proposed to delete definitions (B) for heavy trade scaffolds and (C) for light trade scaffolds. It is further proposed to add a new paragraph (B) to provide the definition for a new term, "Scaffold, Engineered", that is not currently defined in Section 1504 and is included as one of the scaffold categories proposed in Section 1637(b)(2). The remaining definitions are proposed for re-lettering, consistent with existing Title 8 format. To avoid conflict with the different load requirements for light-duty interior scaffolds, a "note" is proposed for the definition of "Light-Duty Scaffold" which states that load requirements for light-duty interior scaffolds are contained in Section 1640(c)(1). The proposed

amendments will have no substantive effect other than to clarify to employers that light, medium, heavy and special duty scaffolds may be constructed of materials other than metal and to clarify the working load requirements for these categories of scaffolds.

#### Section 1637(b)

Section 1637 addresses the general requirements for the construction of scaffolds such as, but not limited to, suitable scaffold materials, required strength characteristics, alternative materials of construction, etc. A revision is proposed to add the title "Scaffold Design and Construction" to Section 1637(b), since additional subsections are proposed (see below) that are specific to the design and construction of scaffolds. It is also proposed to label existing subsection 1637(b) as 1637(b)(1), and add five new subsections, (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6), which address the following design, construction and use requirements for scaffolds:

Proposed new subsection (b)(2) will stipulate that each scaffold shall be designed and constructed to support at least 4 times its own weight and 4 times the maximum intended working load applied or transmitted to it. The proposed amendment will render the state's standard at least as effective as the federal counterpart regulation contained in 29 CFR 1926.451(a)(1) and clearly indicate to the employer that this design load requirement is applicable to all scaffolds addressed by the Title 8, Construction Safety Orders. The proposed revision will ensure consistency with federal requirements and current industry standards.

New subparagraphs (A), (B), and (C) of Section 1637(b)(2) are proposed to specify the working loads of 25, 50, and 75 psf of work platform for light, medium, and heavy-duty scaffolds, respectively. An "exception" to subparagraph (A) is proposed which states that light-duty interior scaffolds shall adhere to the loading requirements contained in Section 1640(c)(1). Subparagraph (D) is proposed which stipulates that the working load for special-duty scaffolds is in excess of 75 pounds psf, as determined by a qualified person or a Civil Engineer currently registered in the State of California and experienced in scaffold design. Subparagraph (E) is proposed which stipulates that the working load for engineered scaffolds is to be determined by a Civil Engineer currently registered in the State of California and experienced in scaffold design. Subparagraph (E) is added to make the requirements of (b)(2) applicable to any engineered scaffold referenced in existing Title 8 safety orders. The proposed revisions will clarify to employers the strength and loading characteristics required for the design and construction of each category of scaffolds and will ensure consistency with current industry standards.



Section 1637(b)(3) is proposed which specifies that a scaffold shall not be subjected to loads greater than its maximum intended working load (see 1637(b)(2)). The proposed revision will prohibit the employer from overloading scaffold platforms beyond their intended working loads.

Section 1637(b)(4) is proposed which states: "Manufactured scaffolds shall be used in accordance with the manufacturer's recommendations." The proposed revision will ensure that manufactured scaffolds are used in a manner consistent with their design.

Section 1637(b)(5) is proposed which states that a qualified person shall determine the maximum intended working load for scaffolds that are neither manufactured nor engineered. The proposed revision will require the employer to select a qualified person, as defined in the Construction Safety Orders, to make the required determination.

Section 1637(b)(6) is proposed which requires that the maximum intended working load for each scaffold be posted at a conspicuous location at each jobsite or be provided to each supervisory employee who shall have it readily available. The proposed revision will prevent overloading of scaffolds by making employees aware of the maximum intended working loads of scaffolds used at the jobsite.

#### Section 1640(C). Light—Trade Interior Scaffolds.

Section 1640 addresses the design and construction requirements for light—trade wooden pole scaffolds. Subsection (b) is applicable to exterior scaffolds, whereas subsection (C) is applicable to interior scaffolds. A revision is proposed to replace the term "Trade" in the section title and the titles of subsections (b) and (C) with the word "Duty" for consistency with the definitions in Section 1504 and current industry terminology. In addition, an editorial revision is proposed to re-letter subsection (C) as "(c)" for consistency with existing Title 8 lettering format. The proposed revisions are for clarity purposes and will have no effect on the regulated public.

### **COST ESTIMATES OF PROPOSED ACTION**

#### **Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

#### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide

adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

#### **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

#### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose non-discretionary costs or savings on local agencies.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

#### ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A description of the proposed changes are as follows:

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS  
Chapter 4, Subchapter 7  
Article 110, Section 5214 and  
Appendix A of Section 5214  
**Inorganic Arsenic**

#### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 5214 of the General Industry Safety Orders establishes requirements for the control of employee exposure to inorganic arsenic. The Division of Occupational Safety and Health (Division) has noted inconsistencies in this section with other sections contained in Title 8, with comparable federal standards, and with exposure limits established by the National Institute for Occupational Safety and Health (NIOSH). This rulemaking action proposes to correct these inconsistencies, as follows, to ensure harmony amongst existing Title 8 regulations and to be at least as effective as federal counterpart regulations and nationally recognized exposure limits.

This proposed rulemaking action contains numerous nonsubstantive, editorial, reformatting of subsections, and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly

indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

- The current standard includes a table which establishes the appropriate level of respiratory protection for different exposures. Changes are proposed to make this table consistent with the comparable federal regulation, and Section 5144.
- The current standard requires that eye protection meet the requirements of Article 10. It also lists two types of eye protection, face shields and ventilated goggles, which are not permitted by Article 10 for certain exposures. The proposal deletes the reference to specific protective devices, and retains the requirement that eye protection meet the requirements of Article 10.
- The current standard requires that the written housekeeping and maintenance plan list the appropriate frequencies of cleaning and maintenance of dust collection equipment. A separate subsection requires “periodic cleaning of dust collection and ventilation equipment and checks of their effectiveness”. A change is proposed to clarify that the requirement for the written plan includes ventilation equipment. A change is also proposed to clarify that the ventilation and dust collection systems must comply with the requirements of section 5143.
- Current Appendix A refers to the use of face shields and vented goggles. The proposal removes that reference, and provides an example of a type of eye protection that is permitted by Article 10.

#### COST ESTIMATES OF PROPOSED ACTION

##### Costs or Savings to State Agencies

No significant costs or savings to state agencies will result as a consequence of the proposed action.

##### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

##### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

##### Cost Impact on Private Persons or Businesses

Insignificant to no overall costs are anticipated to be associated with adoption of these amendments.

##### Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Saving Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the

State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than March 14, 2003. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on March 20, 2003 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.



Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to John D. MacLeod, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## **TITLE 13. CALIFORNIA HIGHWAY PATROL**

### **NOTICE OF PROPOSED REGULATORY ACTION**

AMEND TITLE 13, CALIFORNIA CODE OF  
REGULATIONS (13 CCR) SECTIONS 1160.1,  
1160.2, 1160.4, 1161, 1162.1 AND 1163

### **GENERAL HAZARDOUS MATERIALS REGULATIONS**

**(CHP-R-2001-04)**

In compliance with the requirements of Title 49, U.S. Code Chapter 51, Section 5125, and Title 49, Code of Federal Regulations (49 CFR) Part 107, Subpart C, the California Highway Patrol proposes to amend the General Hazardous Materials Regulations to be consistent with national transportation requirements as required by federal law.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Title 13, California Code of Regulations (13 CCR), Division 2, Chapter 6 contains California Highway Patrol regulations governing the highway transportation of hazardous materials. Article 3, Sections 1160 through 1167, contain the California Highway Patrol's General Hazardous Materials Regulations, e.g., packaging, hazard communication, training, spill reporting and emergency action requirements.

This proposed rulemaking action will make substantive changes to the following:

- Amend Section 1160.1 to clarify the application of all of the General Hazardous Materials Regulations for sole proprietors and partnerships, and clarify that the exception contained in Section 1160.1(e)(6) was in place prior to October 1, 1998, and remains in effect subject to 49 CFR 173.8(c) and (d).
- The publishing date for the federal Hazardous Materials Regulations incorporated by reference in

Section 1160.2 to align the state's requirements with the current (October 1, 2002) federal requirements.

- The requirement in Section 1160.4(g)(2) for the original license (or a copy thereof) to only be presented to traffic officers is changed to now require the license to be presented to any peace officer or any duly authorized employee of the California Highway Patrol. This allows the California Highway Patrol's Commercial Vehicle Inspection Specialist and Motor Carrier Specialist personnel (in addition to its sworn officers) to verify carriers' compliance with the hazardous materials transportation licensing requirement.
- The California Highway Patrol is clarifying and enhancing the procedures for obtaining a temporary license to ensure proper payment is made to the Department and allows carrier easier alternatives to obtain the temporary license.

In addition to the above changes, several non-substantive changes are being made to enhance formatting, clarity and readability in Sections 1160.1, 1160.2, 1160.4, 1161, 1162.1 and 1163 and to add the Internet site where copies of the federal regulations may be purchased or accessed.

The following is a list of specific changes being made.

#### **(1) Section 1160.1:**

Subsection (b) is amended to clarify the intent of the California Highway Patrol to retain the exception contained in 13 CCR 1160.1(e)(6) in effect prior to October 1, 1998, allowing intrastate carriers to continue to use non-specification, non-bulk tanks to transport flammable petroleum distillate fuels for servicing vehicles and/or equipment. Although this exception essentially mirrors the previous language, there are some specific additional requirements imposed by 49 CFR that apply to transportation in commerce and agricultural operations, but not to non-commercial private carriage. As a result, the California Highway Patrol believes it is easier to restate the requirements separately to help clarify the requirements that apply in each situation.

When the California Highway Patrol modified the language of Section 1160.1 in 1998, it believed the requirement in 49 CFR Section 173.8(c) did not require the state to maintain its exception after the adoption of, or the effective date of, 49 CFR 173.8. The California Highway Patrol believed that its exception only had to be in effect prior to October 1, 1998, not maintained in perpetuity. Based on discussions with the U. S. Department of Transportation, the California Highway Patrol is required to maintain the specific exception for the regulated community to take advantage of the exception.



Subsection (d) is amended to clarify the types of businesses that are subject to the Labor Code and Title 8, California Code of Regulations (i.e., those with employees), and those that are not (i.e., those without any employees).

Subsections (g)(1)(B) and (m) are revised to reflect changes in the federal hazardous materials labeling requirements. The "KEEP AWAY FROM FOOD" label was eliminated, and the "POISON" label was split into two categories, i.e., "POISON" and "POISON INHALATION HAZARD" labels.

**(2) Section 1160.2:**

Subsection (a) is amended to update the federal publishing date of the federal Hazardous Materials Regulations incorporated by reference therein. Subsection (b) is amended for clarity. Subsection (e) is amended to reflect the fact that the American Trucking Associations no longer offer the referenced publication for sale, and contains a revision to the federal website.

**(3) Section 1160.4, Subsection (g):**

Subsection (g) is completely reorganized for clarity. Specific amendments are:

- Subsection (g)(1) and (2) are added to clarify where applications can be obtained from, incorporation by reference of the application, how to complete the application for both an initial or renewal and the submission of appropriate fees.
- Subsection (g)(2) is renumbered and the fee for the late renewal, as dictated in California Vehicle Code Section 25001, is added for clarity.
- Subsection (g)(3) for the temporary license is renumbered and revised to correct problems the California Highway Patrol has encountered with collecting fees when carriers have used a telegraphic money order, by requiring the carrier to notify the California Highway Patrol within three (3) business days of the use, and require the fees to be delivered to the California Highway Patrol. The terms for a temporary license are also clarified to indicate that a copy of an improperly completed application is not a valid temporary license.
- Subsection (g)(4) is simply renumbered.
- Subsection (g)(5) is renumbered and the term "traffic officer" is replaced with the phrase "peace officer or any duly authorized employee of the Department." The term "traffic officer" is no longer used to describe California Highway Patrol personnel with peace officer authority and the intent is for any peace officer to be able to inspect for compliance with the licensing requirement. In addition the amendment also provides the California Highway Patrol additional flexibility by allowing its

authorized commercial vehicle inspection personnel, not only those having "peace officer" status, to inspect for compliance with the licensing requirement. Often this will save time during the inspection process which benefits both the California Highway Patrol and the regulated community.

- Subsection (g)(6) is added to prescribe conditions under which the license is to be surrendered and/or cancelled.
- Subsection (g)(7) is simply renumbered.

**(4) Section 1161, Subsection (b):**

Subsection (b) is amended to align the requirement with the federal regulations and to add a note for clarification.

**(5) Section 1162.1, Subsection (b)(1):**

Subsection (b)(1) is amended for uniformity in format by adding the word "three" before the number 3, which is now entered in parentheses.

**(6) Section 1163, Subsection (d):**

Subsection (d) is amended to recognize the two exceptions under 49 CFR which permit a leaking package to be transported for remediation with minimal risk to the public and the environment.

**PUBLIC COMMENTS**

Any person may submit written comments on the proposed action via facsimile at (916) 446-4870, by email to [cvsregs@chp.ca.gov](mailto:cvsregs@chp.ca.gov), or by writing to:

California Highway Patrol  
Commercial Vehicle Section—062  
ATTN.: Paul Horgan  
P. O. Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 P.M., March 17, 2003.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the California Highway Patrol, Commercial Vehicle Section, no later than 15 days prior to the close of the written comment period.

**AVAILABILITY OF INFORMATION**

The California Highway Patrol has available for public review an Initial Statement of Reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the California Highway Patrol at the foregoing address, by facsimile at (916) 446-4870 or by telephoning the California Highway Patrol, Commercial Vehicle Section, at (916) 327-3310.

All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number, in case the requester's information is incomplete.

The rulemaking file is available for inspection at the California Highway Patrol, Commercial Vehicle Section, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our web site at [www.chp.ca.gov/regulations](http://www.chp.ca.gov/regulations).

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our web site.

#### **CONTACT PERSON**

Any inquiries concerning the written materials including substantive questions pertaining to the proposed regulations should be directed to Mr. Paul Horgan or Mr. Chris Braun, California Highway Patrol, Commercial Vehicle Section, at (916) 327-3310.

#### **ADOPTION OF PROPOSED REGULATIONS**

After consideration of public comments, the California Highway Patrol may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

#### **FISCAL AND ECONOMIC IMPACT**

The California Highway Patrol has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no non-discretionary or reimbursable costs or savings to any local agency, school district, state agency or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

The amendments contained in this rulemaking action adopt additional federal regulatory exceptions that should help reduce compliance costs. This rulemaking maintains existing California exceptions, where the state has discretion, for government agencies and non-commerce transportation of hazardous materials.

#### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The California Highway Patrol is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **EFFECT ON SMALL BUSINESSES**

The California Highway Patrol has determined that the proposed regulatory action may affect small businesses.

#### **ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the California Highway Patrol must determine that no reasonable alternative, considered by the California Highway Patrol, or that has otherwise been identified and brought to the attention of the California Highway Patrol, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The California Highway Patrol invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

#### **NON-CONTROLLING PLAIN ENGLISH SUMMARY OF THE FEDERAL REGULATIONS CONTAINED IN TITLE 49, CODE OF FEDERAL REGULATIONS, INCORPORATED BY REFERENCE**

The federal regulations incorporated by reference in Title 13, California Code of Regulations, Section 1160.2(a), contain uniform national and international standards for the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. The regulations govern hazardous materials shipment preparation, transportation and incidental storage, incident reporting and training, this includes:

- Designation, description, and classification of hazardous materials.
- Packaging, repackaging, handling, labeling, marking, and placarding of hazardous materials shipments.

- Loading, unloading, segregation/separation, and securement of hazardous materials.
- Preparation, content, placement and use of shipping documents including emergency response information.
- Written notification, recording and reporting of incidents or accidents involving the transportation of hazardous materials.
- Design, manufacturing, fabrication, marking, maintenance, reconditioning, repair, testing, retesting of a package or container represented, marked, certified or sold as being qualified for use in the transportation of hazardous materials.
- Training of employees performing the above responsibilities.

#### AUTHORITY

This regulatory action is being taken pursuant to Sections 2402.7 and 34501 CVC.

#### REFERENCE

This action implements, interprets, or makes specific Sections 2402.7 and 34501 CVC.

### TITLE 16. BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Sheraton Gateway Hotel, 6101 West Century Blvd., Los Angeles, CA 90045, at 2:00 p.m., on March 22, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on March 21, 2003 or must be received by the California Board of Accountancy at the hearing. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010, 5018, 5027, 5061, 5063, 5079, and 5098 of the Business and Professions Code and Section 11400.20, Government Code, and to implement, interpret or make specific Sections 114, 122, 163, 313.2, 5018, 5020, 5026, 5027, 5061, 5063, 5079, 5081, 5082, 5082.1, 5082.2, 5090, 5092, 5093, 5097, 5098, 5100, 5103, 5108, 5134, Business and Professions Code and Section 11425.50(e), Government Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### 1. Adopt Sections 7.1, 7.2, 8.1, and 8.2, and amend Sections 6, 7, 8, 70, and 71 of Title 16 of the California Code of Regulations.

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Business and Professions Code Sections 5081, 5082, 5082.1, 5082.2, 5090, 5092, and 5093 contains provisions related to the examination requirements for the Certified Public Accountant license.

Existing Sections 6, 7, and 8, of Title 16 implement the examination requirement. Existing Section 70 specifies the examination fees. Existing Section 71 addresses abandonment of the application.

Commencing in early 2004, the examination for the Certified Public Accountant license will be converted from a paper and pencil examination to computer-based testing. This proposal would amend existing Sections 6, 7, 8, 70, and 71 and add new Sections 7.1, 7.2, 8.1, and 8.2 to implement computer-based testing. Amendments to Section 70 also revise the fees for the paper and pencil Uniform CPA Examination to be consistent with the actual cost of the exam and update Section 70 by deleting outdated provisions. The Objective of this proposal is to provide for conversion to computer-based testing.

##### 2. Adopt Section 51.1 of Title 16 of the California Code of Regulations.

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct, and Section 5079 authorizes the Board to adopt regulations related to nonlicensee ownership.

Section 5079 was recently amended to require public accounting firms to disclose the actual or potential involvement of nonlicensee owners in the



services provided (Chapter 231, Statutes of 2002). Proposed Section 51.1 implements this new requirement by specifying notification procedures. The objective of this proposal is to clarify the notification requirement established by the 2002 amendments to Section 5079.

### **3. Amend Section 52 and repeal Section 52.1 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct. Section 5100 authorizes the Board to discipline a license for unprofessional conduct and defines unprofessional conduct. Newly enacted Section 5103 authorizes the Board to conduct investigations and inquiries, and newly enacted Section 5108 authorizes the Board to issue subpoenas (Chapter 231, Statutes of 2002).

Existing Section 52 addresses responses to Board inquiry and existing Section 52.1 addresses failure to appear. This proposal would revise Section 52 to implement Section 5108. Current Section 52.1 contains outdated provisions. With the amendment of Section 52 as proposed, Section 52.1 can be repealed. The objective of this proposal is to update the Board's regulations on response to inquiries to implement newly enacted laws.

### **4. Adopt Section 56.4 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct. Section 5061 relates to commissions and requires the Board to adopt implementing regulations.

Section 5061 was recently amended (Chapters 231 and 1150, Statutes of 2002) to prohibit services for a commission to the officers and directors of an attest client or a client-sponsored retirement plan. An exception was provided for the officers and directors of nonprofits and small businesses. Amendments to Section 5061 defined small business based on Section 1896 of Title 2 of the California Code of Regulations. Proposed Section 56.4 would add the definition to the Board of Accountancy's regulations for enhanced clarity. The objective of this proposal is to clarify the provisions of newly amended Section 5061 for the Board's licensees.

### **5. Adopt Sections 59, 60, and 61 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct.

Business and Professions Code Section 5063 was recently amended to add new self-reporting requirements for licensees of the California Board of Accountancy and to authorize the Board to adopt regulations to further define those requirements (Chapter 231, Statutes of 2002).

This proposal would adopt new Sections 59, 60, and 61 to clarify requirements for the self-reporting of restatements, settlements, arbitration awards, and judgments. This proposal also provides for the self-reporting of investigations initiated by the Public Company Accounting Oversight Board. The objective of this proposal is to clarify newly enacted self-reporting requirements.

### **6. Adopt Sections 68.2, 68.3, 68.4, and 68.5 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct.

Newly enacted Section 5097 establishes audit documentation requirements for licensees of the California Board of Accountancy, and newly enacted Section 5098 authorizes the Board to adopt regulations related to audit documentation and documentation retention/destruction policies (Chapter 230, Statutes of 2002).

Proposed Sections 68.2, 68.3, 68.4, and 68.5 implement these new laws by specifying requirements for the components of documentation, retention periods, changes in documentation, and retention/destruction policies. The objective of this proposal is to implement newly enacted laws related to audit documentation.

### **7. Amend Sections 88 and 88.2 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5026 mandates continuing education for licensees of the California Board of Accountancy and Section 5027 requires the Board to adopt regulations specifying continuing education requirements.

Current Section 88 defines qualifying continuing education programs, and current Section 88.2 describes program measurement for various course



formats. This proposal updates and clarifies requirements. The proposed revisions to Section 88 add a definition of "formal program of learning" and clarify that self-study modules for certain national examinations may qualify as continuing education. This proposal also updates the program measurement requirements for self-study continuing education to be more consistent with national professional standards. The objective of this proposal is to enhance the clarity of the Board's continuing education requirements and to update these requirements for enhanced consistency with national standards.

#### **8. Amend Section 98 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Section 5018 authorizes the Board to adopt rules of professional conduct. Section 5100 authorizes the Board to discipline a license for unprofessional conduct and defines unprofessional conduct. Government Code Section 11400.20 authorizes state agencies to adopt regulations governing adjudicative proceedings, and Government Code Section 11425.50(e) indicates that penalties cannot be based on a guideline unless the guideline is adopted as a regulation.

Existing Section 98 incorporates by reference the California Board of Accountancy's disciplinary guidelines entitled "A Manual of Disciplinary Guidelines and Model Disciplinary Orders" (4<sup>th</sup> edition, 2000).

Section 5100 has been amended and the subdivisions have been re-lettered (Chapters 230 and 231, Statutes of 2002). The disciplinary guidelines are being revised to address this re-lettering. This proposal would amend Section 98 to incorporate by reference the newly revised disciplinary guidelines. The objective of this proposal is to keep the Board's disciplinary guidelines current and to comply with relevant statutory requirements.

#### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Insignificant.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse

economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies were relied upon in making that determination: None.

Impact on Jobs/New Businesses:

The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The California Board of Accountancy is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### **EFFECT ON SMALL BUSINESS**

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.

#### **CONSIDERATION OF ALTERNATIVES**

The California Board of Accountancy must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The California Board of Accountancy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE  
FINAL STATEMENT OF REASONS  
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site listed below.

**CONTACT PERSON**

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Aronna Granick  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815  
Telephone No.: (916) 263-3788  
Fax No.: (916) 263-3675  
E-Mail Address: regcomment103@cba.ca.gov

The backup contact person is:

Name: Mary Crocker  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815  
Telephone No.: (916) 263-3940  
Fax No.: (916) 263-3675  
E-Mail Address: regcomment103@cba.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Granick at (916) 263-3788.

Web site Access: Materials regarding this proposal can be found at [www.dca.ca.gov/cba](http://www.dca.ca.gov/cba).

**GENERAL PUBLIC INTEREST**

**DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL**

**HOUSEHOLD HAZARDOUS WASTE UNIT  
STATE REGULATORY PROGRAMS DIVISION  
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On January 8, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three-year variance to the City of Pinole. Authority for this action is contained in Health and Safety Code, section 25143. The variance was issued to conduct residential household waste collections. This variance authorizes City of Pinole,

through their contractor, to collect household hazardous wastes (HHW) from the elderly, handicapped, and others unable to participate in the regular HHW collection program. Wastes are delivered to an authorized HHW collection facility authorized under permit-by-rule (PBR). No business or agricultural wastes are to be collected under this variance. Specific standards exempted are contained in the Health and Safety Code, section 25201 and California Code of Regulations, title 22, division 4.5, chapter 20. The collections are subject to strict operating standards specified in the variance. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**HOUSEHOLD HAZARDOUS WASTE UNIT  
STATE REGULATORY PROGRAMS DIVISION  
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On January 9, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a variance renewal to Merced County. Authority for this action is contained in Health and Safety Code, section 25143. The variance allows Merced County household hazardous waste (HHW) collection facilities to accept from qualified conditionally exempt small quantity generators (CESQGs) up to 100 kilograms (220 pounds/27 gallons) of hazardous waste at one time, with a 100 kilogram limit per month. The variance also allows those qualified small businesses to transport up to that same limit to the HHWs without meeting registered transporter or hazardous waste manifesting requirements. Standards that are exempted are contained in the Health and Safety Code, sections 25163(a) and 25160 respectively. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson of at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**DISAPPROVAL DECISIONS**

**DECISIONS OF DISAPPROVAL OF  
REGULATORY ACTIONS**

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are published in full in the California Code of Regulatory Decisions. You may request a copy of a decision by contacting Mike Ibold, Law Librarian at the Office of Administrative Law,

300 Capitol Mall, Suite 1250, Sacramento, California  
95814-4339, (916) 323-8906—FAX (916) 323-6826.  
Please request by OAL file number.

**STATE OF CALIFORNIA  
OFFICE OF ADMINISTRATIVE LAW  
(Gov. Code, sec. 11349.3)  
OAL File No. 02-1127-01 S**

SHERRY KAUFMAN  
Staff Counsel

For: SHEILA R. MOHAN  
Acting Director/Chief Counsel

**In re:  
VETERINARY MEDICAL BOARD  
Title 16  
Amend Sections 2070, 207  
of the California Code of Regulations**

**DECISION SUMMARY**

This action would increase the registration and renewal fees for Veterinarians and Registered Veterinary Technicians. It would also delete the provision specifying a lower fee for a Registered Veterinary Technician license which will expire within six months from the date of issuance. On January 14, 2003, the Office of Administrative Law (OAL) disapproved this regulatory action for failure to comply with the clarity standard and because the record contains an incomplete Form 399 Fiscal Impact Statement.

January 16, 2003

Original: Susan M. Geranen, Executive Officer  
Cc: Deanne Pearce

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

**BOARD OF EDUCATION**

**Instructional Materials Funding Realignment Program**

This emergency regulatory action adopts the procedures for funding instructional materials through the Instructional Materials Funding Realignment Program.

Title 5  
California Code of Regulations  
ADOPT: 9531, 9532  
Filed 01/16/03  
Effective 01/16/03  
Agency Contact: Debra Strain (916) 319-0641

**BOARD OF EQUALIZATION**

**Unitary & Nonunitary Property Value Determinations and Petitions for Reassessment**

This nonsubstantive regulatory action concerns deadlines to file petitions for reassessment of Unitary and Nonunitary Property Value Determinations and Petitions for Reassessment and petitions for correction of an allocated assessment. These regulatory changes are necessary to conform to the deadlines given in Revenue and Taxation Code sections 731, 732, and 746.

Title 18  
California Code of Regulations  
AMEND: 904  
Filed 01/15/03  
Effective 01/15/03  
Agency Contact: Diane G. Olson (916) 322-9569

**BUREAU OF AUTOMOTIVE REPAIR**

**Inspection Standards & Test Procedures**

This regulatory action amends the mandatory emissions inspection standards and test procedures.

Title 16  
California Code of Regulations  
AMEND: 3340.42 REPEAL: 3340.42.1  
Filed 01/21/03  
Effective 02/20/03  
Agency Contact: James Allen (916) 255-4300

**CALIFORNIA ARCHITECTS BOARD**

**Filing of Applications**

This action amends provisions governing candidate eligibility for the architect licensing examination including the addition of provisions governing the Intern Development Program (IDP) and the Intern Architect Program (IAP) of Canada.

Title 16  
California Code of Regulations  
ADOPT: 118.5 AMEND: 109, 116, 117, 121  
Filed 01/15/03  
Effective 02/14/03  
Agency Contact: Betsy Figueira (916) 324-9919

**DEPARTMENT OF CONSERVATION**  
**Open Space Subvention Act**

This rulemaking action revises regulations that establish procedures regarding applications for annual payments to partially reimburse local government for property tax revenue lost as a result of restricting the use of land to agricultural and open space purposes in exchange for preferential property tax treatment. The revisions define "nonprime land"; specify the eligible category of agricultural conservation easements in the regulations and in application forms; require local government to include information relation to the cancellation of farmland security zone contracts in their applications; conform the regulations to reflect current Revenue and Tax Code requirements; require applications regarding "prime agricultural land" which are based on a Natural Resource Conservation Service land use capability classification or on the Storie Index Rating to rely on "the most current information suitable for that purpose"; requires applications regarding "prime agricultural land" which are based on animal unit carrying capacity or on the commercial bearing period of land planted with fruit- or nut-bearing trees, vines, bushes or crops or on annual gross value of unprocessed agricultural plant products to rely on information derived from the assessment for the year in which the subvention claim is made; extend the amount of time local governments are required to retain Williamson Act contract termination records from three years to nine years; establish a process for notifying local government if additional or new information is required to complete the application; and the revisions establish a notification and informal hearing process for violations and adjustments that may affect payments under the Open Space Subvention Act.

Title 14  
California Code of Regulations  
ADOPT: 14120 AMEND: 14101, 14102, 14111,  
14112, 14113, 14115, 14116  
Filed 01/21/03  
Effective 01/21/03  
Agency Contact: Tim Bryant (916) 322-5955

**DEPARTMENT OF CORRECTIONS****Payment of funds to inmates when they are released from prison**

This action amends the regulation that specifies eligibility requirements for receipt of a release from prison allowance, clarifying certain limitations on receipt of the payment and the purposes for which it is provided.

Title 15  
California Code of Regulations  
AMEND: 3075.2

Filed 01/21/03  
Effective 02/20/03  
Agency Contact: Randy Marshall (916) 324-6778

**DEPARTMENT OF HEALTH SERVICES**

This emergency rulemaking updates the Medi-Cal reimbursement rates for substance abuse (Drug Medi-Cal) services.

Title 22  
California Code of Regulations  
AMEND: 51516.1  
Filed 01/21/03  
Effective 01/21/03  
Agency Contact:  
Barbara S. Galloway (916) 657-3197

**DEPARTMENT OF INDUSTRIAL RELATIONS****Workers' Occupational Safety and Health Education Fund**

Pursuant to a provision in last year's workers' compensation bill (AB 749, Chapter 6, Stats. 2002), as revised by legislation AB 846, c. 866, stats. 2002, this rulemaking action implements the mandatory funding mechanism for the workers' occupational safety and health training and education program which replaces the former loss control consultation services requirement for workers compensation insurers.

Title 8  
California Code of Regulations  
ADOPT: 339.9 AMEND: 339.8.1  
Filed 01/21/03  
Effective 01/21/03  
Agency Contact:  
James M. Robbins (415) 703-4669

**DEPARTMENT OF INSURANCE****Conflict of Interest**

This is a Conflict of Interest Code filing that has been approved and certified by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 10  
California Code of Regulations  
AMEND: 2690.1, 2690.2  
Filed 01/21/03  
Effective 02/20/03  
Agency Contact: Kim Leslie (916) 492-3511

**DEPARTMENT OF INSURANCE****Low Cost Auto Program Plan of Operations**

This action would amend the Low-Cost Auto Program Plan of Operations to specify the procedures for transferring policies already in force when an insurer decides to enter into a buyout agreement with another insurer for its low-cost auto insurance business.



Title 10  
 California Code of Regulations  
 AMEND: 2498.6  
 Filed 01/16/03  
 Effective 02/15/03  
 Agency Contact:  
 Mary Ann Shulman (415) 538-4133

**DEPARTMENT OF JUSTICE**  
**Proposition 65 Private Enforcement**

This filing is in part a certificate of compliance for an emergency regulatory action which: provided that a notice of motion (and supporting materials) by a private enforcer for judicial approval of a settlement of a Proposition 65 lawsuit that must be served on the Attorney General must be served no later than 45 days prior to the date of the hearing of the motion (or the maximum time permitted by the court if court rules or other applicable orders do not permit a forty-five day period); repealed an existing provision which allowed the Attorney General thirty days after the actual receipt to review a settlement; and conformed existing regulations to changes made by chapter 678, statutes of 2001. In addition, this regulatory action adopted new provisions governing the certificate of merit required by Health and Safety Code section 25249.7(d) and the review by the Attorney General of settlements by persons proceeding in the public interest pursuant to Health and Safety Code section 25249.7(f).

Title 11  
 California Code of Regulations  
 ADOPT: 3100, 3101, 3102, 3103, 3200, 3201, 3203, 3204 AMEND: 3000, 3001, 3002, 3003, 3007, 3008  
 Filed 01/17/03  
 Effective 01/17/03  
 Agency Contact: Edward G. Weil (510) 622-2149

**DEPARTMENT OF PESTICIDE REGULATION**  
**Methyl Bromide Field Fumigation**

This emergency action repeals and readopts the current emergency regulations on methyl bromide field fumigation in order to preserve the status quo and allow DPR more time to review monitoring data and studies of the effects of subchronic methyl bromide exposure before adopting final regulations.

Title 3  
 California Code of Regulations  
 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784  
 Filed 01/21/03  
 Effective 01/21/03  
 Agency Contact:  
 Linda Irokawa-Otani (916) 445-3991

**FAIR POLITICAL PRACTICES COMMISSION**  
**Basic Rule—Guide to COT**

The Fair Political Practices Commission is amending section 18700 of title 2, California Code of Regulations, pertaining to the basic rule as a guide to conflict of interest regulations.

Title 2  
 California Code of Regulations  
 AMEND: 18700  
 Filed 01/16/03  
 Effective 01/16/03  
 Agency Contact: John Wallace (916) 445-4812

**FAIR POLITICAL PRACTICES COMMISSION**  
**Gift Limit Adjustment**

These amendments adjust gift limits upwards by small amounts.

Title 2  
 California Code of Regulations  
 AMEND: 18703.4, 18730, 18940.2, 18942.1, 18943  
 Filed 01/16/03  
 Effective 01/16/03  
 Agency Contact: Kelly Winsor (916) 327-0268

**FAIR POLITICAL PRACTICES COMMISSION**  
**Materiality Standard—Business Entities**

This regulatory action concerns the standards used in assessing a public official's economic interest in a business entity (materiality standard) if that business entity is directly involved in a governmental decision. These regulations are exempt from OAL review and are being submitted to OAL for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2  
 California Code of Regulations  
 AMEND: 18705.1  
 Filed 01/16/03  
 Effective 01/16/03  
 Agency Contact: Ken Glick (916) 322-5660

**FAIR POLITICAL PRACTICES COMMISSION**  
**Contribution and Voluntary Expenditure Ceiling Amounts**

The Fair Political Practices Commission is adopting section 18545 of title 2, California Code of Regulations, pertaining to the contribution limit and voluntary expenditure ceiling amounts.

Title 2  
 California Code of Regulations  
 ADOPT: 18545  
 Filed 01/16/03  
 Effective 02/15/03  
 Agency Contact: Galena West (916) 322-5660

**FISH AND GAME COMMISSION****Coonstripe Shrimp Fishing**

This regulatory action prohibits the commercial take of coonstripe shrimp (*pandalus danae*) between November 1 and April 30 and limits the fishery to traps.

**Title 14**

California Code of Regulations

AMEND: 180.15

Filed 01/17/03

Effective 02/16/03

Agency Contact: John M. Duffy (916) 653-4899

**FRANCHISE TAX BOARD****Contractors-Appportionment of Income, Long Term-Contracts**

In this regulatory action, the Franchise Tax Board amends its Corporation Tax Law regulation pertaining to the apportionment of income from long-term contracts where corporations have income from sources both within and without the State of California.

**Title 18**

California Code of Regulations

AMEND: 25137-2

Filed 01/21/03

Effective 02/21/03

Agency Contact:

Colleen Berwick (916) 845-3306

**MEDICAL BOARD OF CALIFORNIA****Physician and Surgeon; Enforcement**

This rulemaking establishes patient safeguards for liposuction procedures performed outside of hospitals.

**Title 16**

California Code of Regulations

ADOPT: 1356.6

Filed 01/21/03

Effective 02/20/03

Agency Contact: Janie Cordray (916) 263-2389

**OFFICE OF ADMINISTRATIVE LAW****Request For Determination Procedures**

In this emergency regulatory action, the Office of Administrative Law repeals its regulations pertaining to "Procedures for Regulatory Determinations." Determinations have been issued pursuant to the discretionary authority of Government Code section 11340.5(b).

**Title 1**

California Code of Regulations

REPEAL: 121, 122, 123, 124, 125, 125.5, 126, 127, 128, Appendix A

Filed 01/21/03

Effective 01/21/03

Agency Contact: Melvin B. Fong (916) 324-7952

**STATE ALLOCATION BOARD****Leroy Green Facilities Act of 1998-SB 575**

This action is the Certificate of Compliance filing making permanent the prior emergency adoption of procedures for awarding additional new construction or modernization funds for construction of automatic fire detection and alarm and/or sprinkler systems in school facilities. This action implements SB 575 (Stats. 2001, Chap. 725). The prior emergency file number is OAL file number 02-0731-04E.

**Title 2**

California Code of Regulations

ADOPT: 1859.71.2, 1859.78.4, 1859.108 AMEND: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107

Filed 01/16/03

Effective 01/16/03

Agency Contact: Lisa Jones (916) 322-1043

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN SEPTEMBER 18, 2002  
TO JANUARY 22, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

01/21/03 REPEAL: 121, 122, 123, 124, 125, 125.5, 126, 127, 128, Appendix A

10/29/02 AMEND: 1, 100

**Title 2**

01/16/03 ADOPT: 1859.71.2, 1859.78.4, 1859.108 AMEND: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107

01/16/03 ADOPT: 18545

01/16/03 AMEND: 18703.4, 18730, 18940.2, 18942.1, 18943

01/16/03 AMEND: 18705.1

01/16/03 AMEND: 18700

01/13/03 ADOPT: 1866.4.1, 1866.4.2, 1866.4.3, 1866.4.4, 1866.4.6, 1866.4.7, 1866.5.1, 1866.5.2, 1866.5.4, 1866.5.5, 1866.5.6,

1866.5.7, 1866.5.8, 1866.9.1, 1866.12,  
1866.13, 1866.14 AMEND: 1866,  
1866.1, 1866.2, 1866.3, 1866.4, 1866.5,  
1866.5.3, 1866.7, 1866.8, 186

01/08/03 ADOPT: 18535

12/19/02 ADOPT: 1859.200, 1859.201, 1859.202,  
1859.203, 1859.204, 1859.205, 1859.206,  
1859.207, 1859.208, 1859.209, 1859.210,  
1859.211, 1859.212, 1859.213, 1859.214,  
1859.215, 1859.216, 1859.217, 1859.218,  
1859.218, 1859.219, 1859.220,

12/17/02 ADOPT: 599.723.2

12/10/02 ADOPT: 58700

11/26/02 AMEND: 57.1

11/18/02 AMEND: 589, 589.3, 589.4, 589.5, 589.9

11/14/02 AMEND: 2271

11/04/02 ADOPT: 549.95

11/04/02 ADOPT: 1859.70.1, 1859.71.3,  
1859.78.5, 1859.78.6, 1859.78.7,  
1859.93.1, 1859.120, 1859.121,  
1859.122, 1859.122.1, 1859.122.2,  
1859.123, 1859.124, 1859.124.1,  
1859.125, 1859.125.1, 1859.126,  
1859.127, 1859.128, 1859.129, 1859.130,  
1859.140, 1859.141, 1859

10/31/02 ADOPT: 18531.7

10/31/02 AMEND: 51000

10/24/02 ADOPT: 2351

10/09/02 AMEND: 18539.2

10/04/02 ADOPT: 18544

10/04/02 AMEND: 1859.81, 1859.91

**Title 3**

01/21/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784

01/06/03 AMEND: 1380.19(i), 1428.17, 1436.37

12/24/02 ADOPT: 1392.12

12/12/02 AMEND: 3417(b)

12/12/02 AMEND: 3417(b)

12/12/02 AMEND: 3423(b)

12/10/02 AMEND: 3700(b)

12/05/02 AMEND: 6550

12/03/02 AMEND: 6622

12/02/02 AMEND: 3423(b)

12/02/02 AMEND: 1392.1, 1392.2, 1392.4,  
1392.9.1

11/12/02 ADOPT: 4600, 4601, 4602, 4603

11/07/02 AMEND: 6000, 6710

11/01/02 AMEND: 3417(b)

10/28/02 AMEND: 3604(b)

10/24/02 AMEND: 1380.19, 1430.10, 1430.12,  
1430.14, 1430.26, 1430.27, 1430.32,  
1430.45, 1430.50, 1430.51

10/17/02 ADOPT: 3650, 3651, 3652, 3653, 3654,  
3655, 3656, 3657, 3658, 3659, 3660,  
3661, 3662, 3663, 3663.5

10/09/02 AMEND: 1380.19(h), 1420.10, 1442.7  
REPEAL: 1420.9, 1442.10

09/19/02 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784

**Title 4**

12/12/02 ADOPT: 12100, 12101, 12104, 12105,  
12120, 12122, 12124, 12126, 12128,  
12130, 12132, 12140, 12142

12/05/02 ADOPT: 12309, 12310 AMEND:  
12300, 12301, 12302, 12303, 12305

10/15/02 ADOPT: 1867

10/07/02 ADOPT: 12300, 12301, 12302, 12303,  
12304, 12305, 12306, 12307, 12308

**Title 5**

01/16/03 ADOPT: 9531, 9532

01/08/03 ADOPT: 11303, 11304, 11305, 11306,  
11307, 11308, 11316 AMEND: 11303,  
11304, 11305 REPEAL: 4304, 4306,  
4311, 4312

12/23/02 AMEND: 80054.5, 80020.4.1

12/10/02 ADOPT: 11983.5

12/09/02 AMEND: 80054

12/05/02 AMEND: 30950, 30951, 30951.1, 30952,  
30953, 30954, 30955, 30956, 30957,  
30958, 30959

10/21/02 AMEND: 18301

10/17/02 ADOPT: 80434 AMEND: 80001

09/30/02 AMEND: 42356

09/30/02 AMEND: 42933

**Title 8**

01/21/03 ADOPT: 339.9 AMEND: 339.8.1

01/09/03 ADOPT: 412.2 AMEND: 403, 404,  
405.1, 411, 411.1, 411.2, 418, 420 RE-  
PEAL: 407, 407.1, 407.2, 407.3,

01/09/03 AMEND: 9771, 9771.2, 9771.66, 9772,  
9779, 9779.1, 9779.3, 9779.4, 9779.45

01/09/03 AMEND: 769

01/08/03 ADOPT: 46.1

01/06/03 AMEND: 1527

01/03/03 AMEND: 344.30

12/30/02 ADOPT: 10114.1, 10114.2, 10114.3,  
10114.4, 101002, 10103.2, 10106.1,  
10107.1, 10111.2, 10113.1, 10113.2,  
10113.3, 10113.4, 10113.5, 10113.6  
AMEND: 10104, 10105, 10106.5, 10108,  
10109, 10113, 10114, 10115.1 REPEAL:  
10115.3

12/30/02 AMEND: 14300.10, 14300.12, 14300.29

12/19/02 AMEND: 5221, 5223,

12/03/02 AMEND: 4794, 4848, 4850

12/02/02 AMEND: 3441(a)

11/18/02 ADOPT: 2980, 2981, 2982, 2983

10/01/02 AMEND: 3457(b)  
 09/25/02 AMEND: 451, 527  
 09/19/02 AMEND: 14004, 14005

**Title 9**

01/02/03 AMEND: 10355  
 12/26/02 ADOPT: 7149.1 AMEND: 7174  
 11/26/02 ADOPT: 9526, 9531 AMEND: 9500,  
 9505, 9515, 9530, 9535

**Title 10**

01/21/03 AMEND: 2690.1, 2690.2  
 01/16/03 AMEND: 2498.6  
 01/13/03 ADOPT: 2498.6  
 01/02/03 AMEND: 2509.40, 2509.41, 2509.42,  
 2509.45, 2509.77  
 12/31/02 AMEND: 2318.6, 2353.1, and 2354.  
 12/26/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3,  
 2278.5  
 12/16/02 ADOPT: 1422, 1423  
 12/12/02 AMEND: 2632.8  
 12/12/02 ADOPT: 2699.6606, 2699.6711,  
 2699.6631, 2699.6717 AMEND:  
 2699.6500, 2699.6600, 2699.6605,  
 2699.6607, 2699.6611, 2699.6613,  
 2699.6617, 2699.6623, 2699.6625,  
 2699.6629, 2699.6631, 2699.6700,  
 2699.6703, 2699.6705, 2699.6709,  
 2699.6800, 2699.6801, 2699.680  
 12/05/02 AMEND: 2632.13(c)  
 11/22/02 ADOPT: 2689.1, 2689.2, 2689.3, 2689.4,  
 2689.5, 2689.6, 2689.7, 2689.8, 2689.9,  
 2689.10, 2689.11, 2689.12, 2689.13,  
 2689.14, 2689.15, 2689.16, 2689.17,  
 2689.18, 2689.19, 2689.20, 2689.21,  
 2689.22, 2689.23, 2689.24,  
 11/19/02 ADOPT: 2542, 2542.1, 2542.2, 2542.3,  
 2542.4, 2542.5, 2542.6, 2542.7, 2542.8  
 11/18/02 ADOPT: 2187.4  
 11/14/02 AMEND: 5002  
 11/07/02 ADOPT: 2193, 2193.1, 2193.2 2193.3  
 11/04/02 ADOPT: 2698.99  
 10/31/02 ADOPT: 2632.13  
 10/16/02 ADOPT: 2660 AMEND: 2646.2, 2648.4,  
 2651.1, 2652.5, 2655.1, 2655.5, 2655.6,  
 2655.10, 2656.1, 2656.2, 2656.3, 2656.4,  
 2657.2, 2658.1, 2659.1, 2661.3, 2697.3  
 09/25/02 AMEND: 250.9.1(a), 250.12(a), 250.51,  
 350.60(a), 260.001, 260.100.1,  
 260.100.3, 260.102.4(b), 260.102.8(b),  
 260.102.16, 260.103, 260.105.28,  
 260.105.33, 260.111, 260.112, 260.113,  
 260.121, 260.131, 260.140.71.2,  
 260.140.87(e), 260.140.110.2, 260.140.11  
 09/25/02 ADOPT: 2698.90, 2698.91  
 09/19/02 AMEND: 2851, 2851.1

**Title 11**

01/17/03 ADOPT: 3100, 3101, 3102, 3103, 3200,  
 3201, 3203, 3204 AMEND: 3000, 3001,  
 3002, 3003, 3007, 3008  
 12/04/02 ADOPT: 977.52 AMEND: 977.20,  
 977.43, 977.44, 977.45, 977.50, 977.51  
 12/03/02 AMEND: 1001, 1010 REPEAL: 1009  
 11/26/02 AMEND: 1005  
 10/10/02 ADOPT: 435, 436, 437, 438, 439, 440,  
 441, 442, 443, 444, 445, 446, 447, 448,  
 449, 450, 451, 452, 453, 454, 455, 456,  
 457, 458, 459, 460, 461, 462, 463, 464,  
 465, 466, 467, 468, 469, 470, 471, 472,  
 473, 474, 475, 476, 477, 478, 479, 480,  
 481, 482, 483, 48  
 10/07/02 ADOPT: 1012 AMEND: 1001, 1004,  
 1005, PAM D-13 REPEAL: former 1005  
 09/18/02 ADOPT: 61.8

**Title 13**

01/03/03 ADOPT: 2606 AMEND: 2601, 2602,  
 2603, 2604, 2605, 2606, 2607, 2608,  
 2609, 2610  
 12/24/02 AMEND: 2261, 2262, 2262.4, 2262.5,  
 2262.6, 2262.9, 2265, 2266.5, 2269,  
 2271, 2272, 2296  
 11/25/02 AMEND: 810, 811, 812, 813, 814, 815,  
 816, 817, 818  
 11/04/02 ADOPT: 225.00, 225.03, 225.06, 225.09,  
 225.12, 225.15, 225.18, 225.21, 225.24,  
 225.27, 226.30, 225.33, 225.36, 225.39,  
 225.41, 225.45, 225.48, 225.51, 225.54,  
 225.57, 225.60, 225.63, 225.66, 225.69,  
 225.72, and related forms  
 10/18/02 AMEND: 1956.8

**Title 14**

01/21/03 ADOPT: 14120 AMEND: 14101, 14102,  
 14111, 14112, 14113, 14115, 14116  
 01/17/03 AMEND: 180.15  
 01/09/03 ADOPT: 52.00, 52.01, 52.02, 52.03,  
 52.04, 52.05, 52.09 AMEND: 150.16,  
 150.17  
 01/07/03 AMEND: 630  
 01/03/03 ADOPT: 1.91 AMEND: 1.90, 27.60,  
 27.82, 28.27, 28.28, 28.29, 28.54, 28.55,  
 28.58  
 12/31/02 AMEND: 150.06(a)  
 12/30/02 AMEND: 150.16  
 12/30/02 AMEND: 670.2  
 12/30/02 AMEND: 150.06, 150.16  
 12/26/02 AMEND: 670.2  
 12/19/02 AMEND: 11900  
 12/19/02 AMEND: 11900 and 11901  
 12/18/02 ADOPT: 3704.1  
 12/05/02 AMEND: 18419  
 12/03/02 AMEND: 2200, 2320, 2500  
 11/25/02 AMEND: 912.7, 932.7, 952.7



11/25/02 AMEND: 895.1, 929.1, [949.1, 969.1], 929.2, [949.2, 969.2], 929.3, [949.3, 969.3], 929.4, [949.4, 969.4] REPEAL: 929.5, [949.5, 969.5], 1037.5(a), 1052

11/21/02 AMEND: 791.7, 870.15, 870.17, 870.19, 870.21 and incorporated by reference form FG-OSPR -1972

11/21/02 AMEND: 1038(f)

11/18/02 AMEND: 932.9, 952.9

11/18/02 AMEND: 2090, 2105, 2420, 2425, 2530 and 2690 renumbered to 2850

11/14/02 AMEND: 895.1, 912.7, 913.1, 913.2, 932.7, 933.1, 933.2, 952.7, 953.1, 953.2

11/07/02 AMEND: 7.50(b)(5)(E), 7.50(b)(156)(H)

11/07/02 ADOPT: 749.2

10/28/02 AMEND: 1058.5

10/28/02 ADOPT: 4971

10/24/02 ADOPT: 17211, 17211.1, 17211.2, 17211.3, 17211.4, 17211.5, 17211.6, 17211.7, 17211.8, 17211.9

10/21/02 AMEND: 163, 163.5, 164

10/15/02 AMEND: 2030

10/09/02 ADOPT: 819.06, 819.07 AMEND: 815.03, 815.05, 817.02, 817.03, 818.02, 818.03, 819, 819.01, 819.02.8, 19.03, 819.04, 819.05

10/09/02 AMEND: 502, 507(c)

10/08/02 AMEND: 2135

10/03/02 ADOPT: 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817

10/03/02 AMEND: 3502

10/01/02 ADOPT: 3940, 3941, 3942, 3943, 3944, 3945, 3946, 3947, 3948

10/01/02 AMEND: 3650, 3652, 3653, 3655, 3656, 3658

09/30/02 AMEND: 3901, 3909, 3910

09/30/02 AMEND: 17400, 17402, 17402.5

09/19/02 AMEND: 3626, 3627, 3628

09/18/02 AMEND: 300(a) REPEAL: 502.1

**Title 15**

01/21/03 AMEND: 3075.2

12/10/02 ADOPT: 3371.1

10/04/02 AMEND: 3025, 3315

09/30/02 AMEND: 3006

**Title 16**

01/21/03 ADOPT: 1356.6

01/21/03 AMEND: 3340.42 REPEAL: 3340.42.1

01/15/03 ADOPT: 118.5 AMEND: 109, 116, 117, 121

01/07/03 AMEND: 1399.660, 1399.664

01/06/03 AMEND: 1399.85

12/31/02 ADOPT: 811

12/24/02 AMEND: 1399.25, 1399.26, 1399.27, 1399.28, 1399.29

12/24/02 REPEAL: 1382.1

12/23/02 AMEND: 1399.10, 1399.12

12/23/02 ADOPT: 1398.52 AMEND: 1398.37

12/23/02 REPEAL: 1387, 1387.3, and 1387.5

12/19/02 AMEND: 1398.3, 1398.20, 1398.21.1, 1398.28, 1398.42, 1398.47, 1399.12, 1399.20, 1399.21, 1399.22, 1399.52

12/16/02 ADOPT: 1937.17 AMEND: 1996, 1996.2

12/16/02 ADOPT: 1435.15 AMEND: 1435, 1435.2, 1435.3, 1435.5, 1435.6

12/12/02 AMEND: 2310(a)(b)

12/09/02 ADOPT: 2414 AMEND: 2411, 2418

12/03/02 AMEND: 1690, 1691 REPEAL: 1680, 1681, 1682

10/23/02 ADOPT: 1777, 1777.1, 1777.2, 1777.3, 1777.4, 1777.5, 1778, 1778.1, 1778.2, 1778.3

10/08/02 AMEND: 308

10/02/02 ADOPT: 306.3

09/24/02 AMEND: 1999.5

09/23/02 AMEND: 306.2

**Title 17**

01/14/03 AMEND: 52000, 52082, 52084, 52109, 52170, 52171, 52173, 52175

01/14/03 AMEND: 50413, 50425, 50753, 50766, 50810, 54355, 57210, 57433, 58033

01/09/03 ADOPT: 1029.31, 1029.32, 1029.33, 1029.34, 1029.108, 1029.116, 1029, 124, 1029.132, 1029.133, 1029.154, 1029.195, 1031.7, 1034, and 1035.1 AMEND: 1031.4, 1031.5 REPEAL: 1034, 1034.1

12/19/02 AMEND: 57332

12/05/02 AMEND: 58420

12/02/02 AMEND: 6508

11/12/02 AMEND: 94006

10/29/02 AMEND: 54000, 54001

10/08/02 AMEND: 93105(a)(1)

09/24/02 AMEND: 6020, 6025, 6035, 6050, 6051, 6065, 6070, 6075

**Title 18**

01/21/03 AMEND: 25137-2

01/15/03 AMEND: 904

01/14/03 AMEND: 21(e)(1)(A)

01/09/03 AMEND: 23334

12/10/02 AMEND: 17951-1, 17952, 180001-1 REPEAL: 17554

12/10/02 AMEND: 1502

12/10/02 AMEND: 1703

12/10/02 ADOPT: 1535

12/03/02 AMEND: 1525.2

12/02/02 REPEAL: 24348(b)

10/08/02 AMEND: 24344(c)

09/19/02 AMEND: 305.1

**Title 19**

12/19/02 AMEND: 2900, 2910, 2915, 2925, 2930, 2940, 2945, 2955, 2965, 2970, 2980, 2990

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11/21/02 AMEND: 557.9, 560, 567, 574.6, 575.3, 575.4(a), 578.10, 594.3, 594.5, 595.5, 596, 596.1, 596.2, 596.3  
10/21/02 AMEND: 981.3(a)(b)(d)  
10/10/02 ADOPT: 2735.3(rr), 2770.4.1 AMEND: 2735.3(rr) to (zz), 2770.5

**Title 20**

10/28/02 ADOPT: 1601, 1602, 1602.1, 1603, 1604, 1605, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608 REPEAL: 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608

**Title 22**

01/21/03 AMEND: 51516.1  
01/13/03 ADOPT: 100040, 100041 100031, 100039, 100042, 100043, AMEND: 100031, 100032, 100033, 10034, 100035, 100036, 100038, 100040, 100041 REPEAL: 100037, 100039, 100043  
01/07/03 ADOPT: 12203, 12204 AMEND: 12102, 12302, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12601, 12701, 12709, 12711, 12721, 12808, 12803, 12805, 12821, 12901, 12902, 12903, 14000 REPEAL: 12103, 12104, 12201, 12301  
12/24/02 AMEND: 51503, 51503.2, 51504, 51505.2, 51505.3, 51507, 51507.1, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51529, 51535.5  
12/23/02 ADOPT: 64860  
12/23/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12  
12/09/02 ADOPT: 111550  
12/03/02 ADOPT: 119184 REPEAL: Manual of Policies and Procedures Section 12-225.3  
12/02/02 ADOPT: 110411, 110625, 111110, 111120, 111210, 111220, 111230 REPEAL: MPP Sections 12-000, 12-003, and Appendix I  
12/02/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30  
11/25/02 ADOPT: 66273.6, 66273.80, 66273.81, 99273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, 66273.90 AMEND: 66271.9, 66273.1, 66273.8, 66273.9  
11/25/02 ADOPT: 119015, 119019, 119045, 119069, 119076, 119191, and Forms CSS 4476 (09/02), CSS 4477 (09/02), CSS 4478 (09/02), CSS 4479 (09/02), CSS 4480 (09/02), and CSS 4481 (09/02)  
11/18/02 AMEND: 69103  
11/18/02 ADOPT: 4407.1

11/05/02 AMEND: 1256-9, 1253. 12-1, 1030(a)-1  
10/31/02 ADOPT: 64806  
10/28/02 ADOPT: 110250, 110374, 117016, 117019, 117021, 117025, 117030, 117036, 117042, 117047, 117049, 117052, 117054, 117064, 117074, 117080, 117083, 11785, 117089, 117091, 117094, 117200, 117300, 117301, 117302, 117303, 117400, 117401, 117402, 117403, 117404,  
10/21/02 ADOPT: 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132, 116  
10/09/02 ADOPT: 111900, 111910, 111920, 121100, 121120, 121140 REPEAL: (MPP) 12-435  
10/07/02 AMEND: 5000, 5065, 5102  
09/30/02 ADOPT: 110550 AMEND: 110413, 113100, 113200, 113300 REPEAL: 12-401.1, 12-104.432  
09/23/02 AMEND: 66261.9

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12/03/02 AMEND: 101218.1, 102419, 102421  
10/28/02 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 87010, 87010.1, 87010.2, 87017, 87018, 87019, 87019.1, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 87031, 9

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01/13/03 ADOPT: 3963  
12/19/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5  
12/17/02 ADOPT: 3913  
12/09/02 AMEND: 3933  
12/05/02 ADOPT: 510, 511, 512, 513, 514, 515, 516, 517  
10/29/02 AMEND: 2200  
09/25/02 AMEND: 645, 717(c), 767(b)  
09/19/02 AMEND: 3937

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11/07/02 AMEND: 1317, 1318, 1319  
11/07/02 AMEND: 5575  
10/01/02 AMEND: 7202, 7234  
09/30/02 AMEND: Section 6500, Appendix A & B

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12/17/02 ADOPT: 1300.67.60	12/24/02 AMEND: 84001, 84022, 84061, 84063, 84065, 84800, 84801, 84802, 84802.1, 84808, 84805, 84803, 84804, 84806, 84807.
12/16/02 ADOPT: 1300.89	
11/21/02 AMEND: 1000, 1300.43.3, 1300.43.6, 1300.43.10, 1300.43.13, 1300.43.14, 1300.43.15, 1300.45, 1300.47, 1300.51, 1300.51.1, 1300.51.2, 1300.52.1, 1300.61.3, 1300.65.1, 1300.89, 1300.99	12/19/02 AMEND: 45-101, 45-201, 45-202, 45-203, 45-302, 45-304, 80-310
	10/21/02 AMEND: 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420, 31-440, 31-445
11/12/02 ADOPT: 1300.70.4, 1300.74.30 AMEND: 1300.68, 1300.68.01	10/02/02 ADOPT: 40-107.141, .142, .143, .144, .15, 151, .152; 42-302.114, .114(a)-(c), .21(h)(l), .3; 44-133.8; 82-833 AMEND: 40-107.14, 16, .17, .18, .19; 42-301.2; 44-133.51; 82-823

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01/14/03 ADOPT: 16-705	
01/14/03 ADOPT: 11-404, 11-406 AMEND: 11-400, 11-402, 11-403, 11-405	09/30/02 AMEND: 63-403.1, 63-405.134, 63-409.122, 63-502.31

